

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass and Be Placed on the Consent Calendar
Vote:	8 - 0 - 1
Yeas:	Barker, Bonamici, Cameron, Flores, Komp, Krieger, Whisnant, Macpherson
Nays:	0
Exc.:	Read
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	1/25

WHAT THE MEASURE DOES: Clarifies that the Oregon State Bar Board of Governors (“Board”) must determine whether a client suffered a loss that was caused by his or her lawyer’s dishonest conduct before it can award the client money from the Client Security Fund (“Fund”). Deletes requirement that the Board must determine that the lawyer was found guilty of a crime, was disciplined or resigned due to the dishonest conduct, or was subject to a civil judgment, before it may use subpoenas to investigate claims by clients.

ISSUES DISCUSSED:

- The Fund
- Ambiguities in ORS 9.655
- The Board’s need for subpoena power to investigate claims

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: The Fund, which is funded by bar members, is designed to mitigate losses suffered by clients of active bar members that were caused by the lawyer’s dishonest conduct. The Board is charged with investigating claims by clients who seek payment from the Fund, but its subpoena power is dependent upon the lawyer being disciplined, charged with a crime, or subject to a civil judgment. If these conditions do not exist, for example, if the lawyer is deceased, the Board cannot use a subpoena to require persons with knowledge to produce documents or sit for a deposition. HB 2355 allows the Board to issue subpoenas to investigate claims by clients. The bill also clarifies that a finding of dishonesty by the Board is a necessary condition of payment from the Fund.